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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,303	03/12/2004	George W. Robinson	05165.1500	5773

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BAKER & HOSTETLER, LLP FOR BOEING COMPANY WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036		

EXAMINER
MCCALL, ERIC SCOTT

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
05/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/798,303

**Applicant(s)**

ROBINSON ET AL.

**Examiner**

Eric S. McCall

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1,5,11,12,14,15,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,4,6-10,13,16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>May 13, 2004</u> . | 6) <input type="checkbox"/> Other: ____  |

**BRAKE PEDAL POSITIONING APPARATUS AND METHOD**

**FIRST OFFICE ACTION**

**INFORMATION DISCLOSURE STATEMENT**

The Applicant has not provided the dates of the disclosed documents listed on the Information Disclosure Statement. The Examiner states that such dates need to be disclosed.

**DRAWINGS**

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because Fig. 10 includes the reference character "6" which is not mentioned in the description.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet

submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**CLAIMS**

**35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 5, 11, 12, 14, 15, 17, 19, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Sakamoto et al. (6,681,620).

With respect to independent claim 1, Sakamoto et al. set forth a pedal positioning apparatus, comprising:

a shaft (86);

a ratchet assembly (40) comprising a handle translatable along said shaft;

a lever arm (38) having a first end and a second end, and pivotally connected (70) to said ratchet assembly at said first end of said lever arm; and

a pad (36) attached to the second end of said lever arm that contacts a pedal and is configured to apply force to said pedal when said ratchet assembly is translated.

With respect to claim 5, the nut (90) of Sakamoto et al. is interpreted as the foot as claimed.

With respect to claim 11, the pad of Sakamoto et al. is constructed from a non-deformable material as claimed (Fig. 5).

With respect to independent claim 14, Sakamoto et al. set forth a pedal positioning apparatus, comprising:

a means for supporting (86) the apparatus on a surface;

a means for clamping onto said supporting means and translating along said supporting means (Fig. 3);

a lever arm (38) having a first end and a second end, and pivotally connected to said clamping means at said first end of said lever arm (Fig. 3); and

contacting means attached to the second end of said lever arm for contacting a pedal and applying force to the pedal when said clamping means is translated along said supporting means (Fig. 2).

With respect to claim 15, the nut (90) of Sakamoto et al. is interpreted as the foot as claimed.

With respect to claim 17, Sakamoto et al. set forth a pad mounted to the second end of the lever arm by a bracket (Fig. 5).

With respect to independent claim 19, Sakamoto et al. set forth an apparatus to position a pedal, for use with a clamp having a handle translatable along a shaft, the apparatus comprising:

a lever arm (38) having a first end and a second end, wherein said first end of said lever arm is pivotally connected (70) to the clamp; and

a pad (36) connected to said second end of said lever arm that contacts a pedal and applies force to the pedal when the handle is translated along the shaft.

With respect to claim 20, said claim closely parallels that of claim 1 and is thus suggested by Sakamoto et al. for the same reasons thereof.

Allowable Subject Matter

Claims 2-4, 6-10, 13, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of

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the base claim and any intervening claims because the prior art fails to teach or suggest the claimed subject matter of the respective claims.

Claim 21 has been found to be allowable over the prior art.

**CITED DOCUMENTS**

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record at the time of this office action.

**CONTACT INFORMATION**

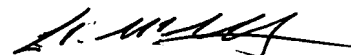
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall  
Primary Examiner  
Art Unit 2855  
May 23, 2007